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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 26.04.2024

\+ W.P.(C) 10227/2015

DELHI TRANSPORT CORPORATION ..... Petitioner

Through: Mrs. Avnish Ahlawat, SC with Mrs. Tania Ahlawat, Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr Mohnish Sehrawat, Advs.

versus

PURAN MASI RAM ..... Respondent

Through:

\+ W.P.(C) 7035/2017

DELHI TRANSPORT CORPORATION ..... Petitioner

Through: Mr. Uday N. Tiwary and Mr. Akshat Tiwary, Advs

versus

JAI GOPAL AND ORS ..... Respondents

Through: Mr. S K Mishra, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI
HON'BLE MR. JUSTICE SAURABH BANERJEE

REKHA PALLI, J (ORAL)

1. The present writ petitions under Article 226 and 227 of the Constitution of India seek to assail the orders dated 11.01.2015 and 28.04.2017 passed by the learned Central Administrative Tribunal in

O.A. 2595/2012 and in O.A.2742/2014, respectively.

2. For the sake of convenience, we are referring to the facts of O.A. 2595/2012 as we find that OA 2742/2014 was allowed by the Tribunal by following its decision in OA 2595/2012. Vide the impugned order, the learned Tribunal has allowed the Original Application filed by the respondent by accepting his claim for gratuity of Rs. 10,00,000/- as per the recommendations made by the 6th Central Pay Commission.

3. Upon notice being issued in the present petition on 02.11.2015, this Court directed that contempt petition for implementation of the impugned order would not be pressed. This interim order has been continued from time to time. Consequently, the respondent has been released only a sum of Rs. 3,50,000/- as against his claim for gratuity of Rs. 10,00,000/-.

4. The record shows that none has been appearing for the respondents for the last many dates. Taking the same into account as also the fact that the petition has remained pending before this Court for more than eight years, both the petitions are being taken up for disposal without granting any further opportunity to the respondents.

5. In support of the petition, learned counsel for the petitioner submits that the learned Tribunal has failed to appreciate that the recommendations of the 6th CPC were not automatically applicable to the petitioner/corporation. The petitioner being an autonomous organization was free to take a decision as to whether to adopt the recommendations made by the 6th CPC as also regarding the date from which the said recommendations were to be implemented in the

petitioner/corporation. By drawing our attention to the office order dated 29.11.2010, learned counsel for the petitioner submits that the DTC Board had taken a conscious decision to accept the recommendations of the 6th CPC to enhance the existing upper limit of gratuity from Rs. 3,50,000/- to 10,00,000/- only with effect from 24.05.2010. Consequently, the respondent who superannuated on 31.07.2009 could not claim gratuity merely on the basis of the recommendations of the 6th CPC as his entitlement to gratuity was based on the financial decisions taken by the corporation.

6. By placing reliance on the decision dated 23.02.2010 of this Court in ***DTC Retired Engineers Association Vs DTC & Ors***, she submits that this Court has already opined that the DTC, being an autonomous body, is entitled to take its own decision with respect to pay fixation and other such matters and is not bound by the recommendations made by the Central Pay Commissions. To buttress her plea that it is always open for autonomous corporations to fix their own cut off dates for grant of any benefit as may be recommended by the pay commission, she places reliance on a decision of the Apex Court judgment in ***Chairman & MD, KSRTC Vs K.O. Verghese*** 2007 (8) SCC 231.

7. Having considered the submissions of learned counsel for the petitioner and perused the record, we find that the learned Tribunal has, while allowing the respondent's claim, failed to appreciate that the petitioner is an autonomous organization to which the recommendations made by the Central Pay Commissions are not *per se* applicable. The said recommendations become applicable to

autonomous organizations only when a decision is taken to adopt the same. Learned counsel for the petitioner is, in our view, correct in urging that it was always open for the corporation to decide a cut off date from which the recommendations of the Pay Commission are to be made applicable. In this regard, we may refer to the following extract of the decision in ***Chairman & MD, KSRTC(supra)*** wherein the Apex Court held as under**:-**

> *"21. The High Court, in our view, is not correct in thinking that there is any compulsion on KSRTC on the mere adoption of Part III of KSR, to automatically give enhancements in pension and other benefits given by the State Government to its employees. There is no provision in Part III of KSR containing such a stipulation. It only provides for payment of pension. The question of revision or enhancement of pension to its employees is left to KSRTC, an autonomous corporation, subject of course to any direction that may be issued by the State Government under Section 34 of the Act. The mere adopting of Part III of KSR does not therefore shackle or control the power of KSRTC to take a decision in the absence of any regulation already framed: that the enhanced pensionary benefits as recommended by the Fifth Pay Commission need not be paid commencing on the same date as the State Government employees but the question of enhancing pension could be considered at a later point of time. There is nothing in Part III of KSR to control the power of KSRTC to decide that the recommendations of the Fifth Pay Commission may be implemented with effect from a particular date or that it need not be implemented at all in view of the precarious financial condition of KSRTC. The reasoning therefore that the direction to adopt Part III of KSR and the order adopting it by KSRTC would denude KSRTC of its power to fix a cut-off date for adopting and implementing the recommendations of the Fifth Pay Commission is found to be not sustainable."*

8. From a perusal of the aforesaid, it is evident that unless any specific directions are issued by the Government, it is always open for the autonomous organizations to formulate as to whether the benefits granted by the Central Government or State Government should be

extended to its employees or not and if yes, from which date. In the present case, it is the petitioner's specific case, which is also borne out from a perusal of the order dated 29.11.2010, that the petitioner had decided to enhance the upper limit of gratuity from Rs. 3,50,000/- to Rs. 10,00,000/-, only w.e.f. 24.05.2010. Consequently, employees of the petitioner who superannuated before 24.05.2010 were not entitled to receive gratuity of Rs. 10,00,000/- . In our considered view, the issue of gratuity being a policy matter lays squarely in the domain of the petitioner. As such, they were free to fix the date from which the upper ceiling of gratuity was to be enhanced.

9. For the aforesaid reasons, the impugned order, wherein the learned Tribunal, despite noting the fact that the respondent superannuated much prior to 24.05.2010, allowed the claim of the respondent for Rs. 10,00,000/- as gratuity, cannot be sustained. The impugned orders are, accordingly, set aside.

10. The writ petitions are, accordingly, dismissed in the aforesaid terms.

(REKHA PALLI)
JUDGE

(SAURABH BANERJEE)
JUDGE

APRIL 26, 2024/rr